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EXAMINER

MEISLIN, DEBRA S

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 02/25/2004

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,043

Applicant(s)

DOCKERY, FORREST

Examiner

Debra S Meislin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7,11-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,7,11,12 and 14-16 is/are allowed.
- 6) ☒ Claim(s) 13,18,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The amendment filed December 10, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "the second axial bore 704" and "having a generally spherical receptacle 701" as added to the paragraph on page 6 that begins on line 4.

Newly submitted figures 14 and 15 are not approved for entry since they contain new matter not supported by the original disclosure. Even though the original specification sets forth "spring bias teeth" and "spring bias pin", the specific structure as set forth in newly submitted figures 14 and 15 are not supported by the broad recitation of "spring bias teeth" and "spring bias pin". It is clear that such specific structure could not be ascertained from the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The "ball lock" was not set forth in the original disclosure and thus constitutes new matter.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "spring biased teeth"

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and “spring biased pin” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Since the original specification fails to clearly define the structure of “spring biased teeth” or “spring biased pin”, it would appear that any attempt to amend the drawings to include such elements would be considered new matter.

It is noted that the structure of old and well known “spring biased teeth” and a “spring biased pin” would need not be added to the drawings as such structure would be considered admitted prior art and obvious mechanical variants. Such a recitation must be added to the specification (and not merely argued) to overcome the objection to the drawings.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over O (5,154,104) in view of Smith, Yorde, or Osborn.

O discloses all of the claimed subject matter except for having perpendicular channels and a retainer ring. O discloses a connector 16', an elongate body 14', and a tool 22. Smith, Yorde, or Osborn disclose a tool having perpendicular channels and a retainer ring. It would have been obvious to one having ordinary skill in the art to form the tool of O with perpendicular channels and a retainer ring to grip a workpiece or tool as taught by Smith, Yorde, or Osborn.

6. Claims 1-2, 7, 11-12, and 14-16 are allowed.
7. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Applicant's arguments filed December 10, 2003 have been fully considered but they are not persuasive.

It is noted, however, that upon further review of the applied references, it has been determined that O in view of Parsons does not disclose the combination of elements as set forth in claim 1. Additionally, in claim 1, the limitation "a fastener removably supported on said tool" has been considered to be a part of the claimed invention.

The examiner maintains that claims 18 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over O (5,154,104) in view of Smith, Yorde, or Osborn for the reasons set forth in paragraph 5, above.

Newly submitted figures 14 and 15 are not approved for entry since they contain new matter not supported by the original disclosure. Even though the original

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specification sets forth "spring bias teeth" and "spring bias pin", the specific structure as set forth in newly submitted figures 14 and 15 are not supported by the broad recitation of "spring bias teeth" and "spring bias pin". It is clear that such specific structure could not be ascertained from the original disclosure.

The "ball lock" was not set forth in the original disclosure and thus constitutes new matter. An indication by the examiner that ball locks are old in the art does not provide support by the original disclosure that applicant had possession of the claimed invention.

Since the original specification fails to clearly define the structure of "spring biased teeth" or "spring biased pin", it would appear that any attempt to amend the drawings to include such elements would be considered new matter. It is noted that the structure of old and well known "spring biased teeth" and a "spring biased pin" would need not be added to the drawings as such structure would be considered admitted prior art and obvious mechanical variants. Such a recitation must be added to the specification (and not merely argued) to overcome the objection to the drawings.

10. Any inquiry concerning this communication should be directed to Debra S. Meislin at telephone number 703-308-3671.



Debra S. Meislin
Primary Examiner
Art Unit 3723

2/24/04